

**ASSESSMENT AREA ACT AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill amends the definition of "adequate protest" for provisions governing an assessment area.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of "adequate protest" for provisions governing an assessment area.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**11-42-102**, as last amended by Laws of Utah 2011, Chapters 68 and 388

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **11-42-102** is amended to read:

**11-42-102. Definitions.**

(1) "Adequate protests" means timely filed, written protests under Section 11-42-203 that represent at least ~~[50%]~~ 15% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(a) protests relating to:

(i) property that has been deleted from a proposed assessment area; or

(ii) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(b) protests that have been withdrawn under Subsection 11-42-203(3).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method by which an assessment is levied against property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method that equitably reflects the benefit received from the improvement.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) "Connection fee" means a fee charged by a local entity to pay for the costs of

connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(14) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(15) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(16) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(18) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(19) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

(20) "Guaranty fund" means the fund established by a local entity under Section

95 11-42-701.

96 (21) "Improved property" means property proposed to be assessed within an  
97 assessment area upon which a residential, commercial, or other building has been built.

98 (22) "Improvement":

99 (a) (i) means any publicly owned infrastructure, system, or other facility that:

100 (A) a local entity is authorized to provide; or

101 (B) the governing body of a local entity determines is necessary or convenient to  
102 enable the local entity to provide a service that the local entity is authorized to provide; and

103 (ii) includes facilities in an assessment area, including a private driveway, an irrigation  
104 ditch, and a water turnout, that:

105 (A) can be conveniently installed at the same time as an infrastructure, system, or other  
106 facility described in Subsection (22)(a)(i); and

107 (B) are requested by a property owner on whose property or for whose benefit the  
108 infrastructure, system, or other facility is being installed; or

109 (b) for a local district created to assess groundwater rights in accordance with Section  
110 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific  
111 groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

112 (23) "Improvement revenues":

113 (a) means charges, fees, impact fees, or other revenues that a local entity receives from  
114 improvements; and

115 (b) does not include revenue from assessments.

116 (24) "Incidental refunding costs" means any costs of issuing refunding assessment  
117 bonds and calling, retiring, or paying prior bonds, including:

118 (a) legal and accounting fees;

119 (b) charges of financial advisors, escrow agents, certified public accountant verification  
120 entities, and trustees;

121 (c) underwriting discount costs, printing costs, the costs of giving notice;

122 (d) any premium necessary in the calling or retiring of prior bonds;

123 (e) fees to be paid to the local entity to issue the refunding assessment bonds and to  
124 refund the outstanding prior bonds;

125 (f) any other costs that the governing body determines are necessary or desirable to

incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(25) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(26) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(27) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

(28) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(29) "Local entity" means a county, city, town, special service district, local district, military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

(30) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(31) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(32) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(33) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(34) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(35) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(36) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(37) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(38) "Project engineer" means the surveyor or engineer employed by or private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(39) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(40) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(41) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(42) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

(43) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

(44) "Refunding assessment bonds" means assessment bonds that a local entity issues

188 under Section 11-42-607 to refund, in part or in whole, assessment bonds.

189 (45) "Reserve fund" means a fund established by a local entity under Section  
190 11-42-702.

191 (46) "Service" means:

192 (a) water, sewer, storm drainage, garbage collection, library, recreation,  
193 communications, or electric service;

194 (b) economic promotion activities; or

195 (c) any other service that a local entity is required or authorized to provide.

196 (47) "Special service district" has the same meaning as defined in Section 17D-1-102.

197 (48) "Unimproved property" means property upon which no residential, commercial, or  
198 other building has been built.

199 (49) "Voluntary assessment area" means an assessment area that contains only property  
200 whose owners have voluntarily consented to an assessment.

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**Legislative Review Note**  
**as of 10-15-12 9:10 AM**

**Office of Legislative Research and General Counsel**